

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

SHELBY BRYAN MARTIN

PLAINTIFF

V.

CASE NO. 3:19-cv-03021

**SHERIFF MIKE MOORE;
PROSECUTING ATTORNEY
WES FRADFORD; CORPORAL ART
SWANSON, Harrison Police
Department; and PROBATION
OFFICER MARCUS HOGLER**

DEFENDANTS

OPINION AND ORDER

This is a civil rights action filed by the Plaintiff pursuant to 42 U.S.C. § 1983. Plaintiff proceeds *pro se*. Plaintiff is incarcerated in the Boone County Detention Center.

By Order (Doc. 7) entered on March 13, 2019, Plaintiff was directed to submit a completed *in forma pauperis* ("IFP") application or pay the filing fee by April 5, 2019. Plaintiff was advised that failure to comply with the Order "shall result" in the dismissal of the case.

To date, Plaintiff has not filed an IFP application or paid the filing fee. Plaintiff has not sought an extension of time to comply with the Order. No mail has been returned as undeliverable.

The Federal Rules of Civil Procedure specifically contemplate dismissal of a case on the ground that the plaintiff failed to prosecute or failed to comply with order of the court. Fed. R. Civ. P. 41(b); *Line v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (stating that the district court possesses the power to dismiss *sua sponte* under Rule 41(b)). Pursuant to Rule 41(b), a district court has the power to dismiss an action based on "the plaintiff's failure to comply with *any* court order." *Brown v. Frey*, 806 F.2d 801,

803-04 (8th Cir. 1986) (emphasis added). Additionally, Rule 5.5(c)(2) of the Local Rules for the Eastern and Western Districts of Arkansas requires parties appearing *pro se* to monitor the case, and to prosecute or defend the action diligently.

Therefore, pursuant to Rule 41(b), this Complaint should be and hereby is **DISMISSED WITHOUT PREJUDICE** based on Plaintiff's failure to prosecute this case, his failure to obey the order of the Court, and his failure to comply with Local Rule 5.5(c)(2). Fed. R. Civ. P. 41(b).

IT IS SO ORDERED on this 10th day of April, 2019.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE